IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.210 OF 2005

ALONG WITH

COMPANY APPLICATION NO.211 OF 2005

IN

COMPANY PETITION NO.521 OF 1992

M/s.Henkal Chemicals (I) Ltd. ...Petitioners

Versus

The Official Liquidator ...Respondents

And

Garware Shipping Corpn.Ltd. ...Applicants

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Mr.A.S.Kamath i/b V.Deshpande & Co. for Applicants.

Mrs.K.V.Gautam, Dy.Official Liquidator is present.

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CORAM: A.M.KHANWILKAR, J.

JULY 22, 2005.

P.C.

1. The representative of the Official Liquidator has opposed these Applications on merits as well as on the ground that the Applications are barred by latches. According to the Official

Liquidator, the Applicants were aware about the order of winding up passed as back as in 1988, but the present Applications have been moved only now.

2. Even so, to my mind, that will not preclude the Applicants from pursuing the present remedy before this Court. This is so, because the subject Suit has been instituted by the Applicants in the Small Causes Court much before the winding up order was passed against the Company in liquidation. Now that the Suit has riped for hearing, the question for taking leave of the Court to continue that Suit, has arisen. Viewed in this perspective, the Applications deserve to be considered on their own merits.

3. On merits, the representative of the Official Liquidator has opposed these Applications on diverse grounds.

4. Counsel for the Applicants, on instructions, states that the Court may not record the reasons why the Court is inclined to grant leave to the Applicants, on condition that the

Applicants shall bear entire cost of the litigation pending before the Small Causes Court and to be continued thereafter, if at all, in proceedings in appeal against the decree of the Small Causes Court.

5. On the assurance given by the Applicants in the above terms, Applications are made absolute in terms of prayer clause (a), on condition that the respective Applicants will deposit sum of Rs.25,000/- (Rupees Twenty-five Thousand) on account with the Official Liquidator within two weeks from today. Besides, the Applicants shall file affidavit of undertaking before this Court within two weeks from today that they shall make good all the legal expenses to be incurred by the Official Liquidator in respect of the proceedings taken out by the Applicants before the Small Causes Court till the stage of appeal before the highest Court, if occasion arises. The amount of Rs.25,000/- (Rupees Twenty-five Thousand) in the respective applications, to be deposited by the Applicants in terms of this order, will be adjusted towards such legal cost to be incurred by the

Official Liquidator.

A.M.KHANWILKAR, J.